

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 788 of 1980

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT HOUSING BOARD

Versus

H B PANDYA

Appearance:

None has appeared either on behalf of the
appellant or on behalf of the respondent.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 07/07/2000

ORAL JUDGEMENT

This appeal is pending in this Court for about 20
years. It is listed at No.1 for final hearing. The
Court has waited for someone to appear till 4.45 p.m.

and this order is being passed just before the rising of the Court, after sending messages for the Learned Counsel for the appellant, time and again through out the day. The respondent in this case was initially an employee of Bombay Housing Board and his service was allotted to the State of Gujarat, under the State Reorganization Act, 1960. He was since then serving Gujarat Housing Board at Ahmedabad as Supervising Rent Collector. The Gujarat Housing Board passed a resolution dated 29-6-1978 on the basis of which an order was passed on 10-8-1978, compulsorily retiring the plaintiff from the service.

Thus, according to the respondent herein he was entitled to continue in the service upto the age of 58 years, which was normally the age of superannuation. Therefore, he challenged the aforesaid order dated 10-8-1978 by way of filing Civil Suit No.4328/78 in the City Civil Court, Ahmedabad. This suit dated 29-9-1978 was decreed by the Court by the judgement and decree dated 30-9-1979 against which the present appeal has been filed by the Gujarat Housing Board. The appeal has remained pending for all these years and the papers, which have been made, available show that there was no Civil Application for stay and the order-sheet in this appeal shows that the appeal was admitted. It would, therefore, be reasonable to presume that the respondent might have continued in his service till the age of 58 years and must have retired on attaining the normal age of superannuation fixed under the rule. By this time, the respondent must have attained the age of 77 years and it also appears that by this time the appellant has lost interest in this matter, because the respondent had retired long back on attaining normal age of superannuation and by this time the respondent must be at least 77 years of age. It is obvious that the appellant has lost interest in this matter and is no more interested in prosecuting the matter and, therefore, none has come to appear on behalf of the appellant, despite repeated messages sent to the Learned Counsel whose name has been shown on the Board and the clerk of Mr. P.M. Raval has informed the Learned AGP Ms Harsha Dewani who is incidently present in the Court that the appellant Gujarat Housing Board has taken away the papers from Mr.Raval. The appellant may have considered that this mater has become infructuous. In any case, I find that for no reason this appeal should now be allowed to pend in this Court. The same is hereby dismissed for non-prosecution.

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